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08/747,873	11/13/96	MEGENS	J 53142/908600

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ART UNIT PAPER NUMBER

3506

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DATE MAILED 05/09/97

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

Responsive to communication(s) filed on 11/13/96

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

Claim(s) 1-21 is/are pending in the application.
Of the above claim(s) _____ is/are withdrawn from consideration.
 Claim(s) 1 is/are allowed.
 Claim(s) 1-4 and 6-21 is/are rejected.
 Claim(s) 5 is/are objected to.
 Claim(s) _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
 The drawing(s) filed on _____ is/are objected to by the Examiner.
 The proposed drawing correction, filed on 9/4/96 is approved disapproved.
 The specification is objected to by the Examiner.
 The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) 07/487892.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

Notice of Reference Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). 14

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

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DETAILED ACTION

Information Disclosure Statement

The Supplemental information disclosure statement filed November 13, 1996 has now been reviewed by the examiner, and all of the references cited therein have been considered by the Examiner with the exception of German language publication 165168. The submission of German language publication 165168 fails to comply with 37 CFR 1.98(a)(3) because the applicant has failed to provide a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the publication. The German language publication has been placed in the application file, but the information therein has not been considered by the Examiner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 8 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips et al (U.S. 3,659,899). Regarding Claims 1 and 12, Phillips et al teach all of the recited structure

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with the exception that Phillips et al do not specifically teach that the base (floor 65) is inclined. It would have been obvious to incline the base (floor 65) in the same way that a roof, sidewalk, driveway, or garage floor is inclined in order to facilitate drainage of liquids therefrom.

Regarding Claim 8, it would have been obvious to provide a housing in a bottom portion of the recess in order to provide the side walls shown surrounding the bag 66 in Figure 6 and to facilitate installation and removal of the section 63 and bag 66 from the loading platform 62.

Claims 2, 6-7 and 13-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips et al (U.S. 3,659,899) in view of Smock (U.S. 3,784,255). Regarding Claims 2 and 13-15, Phillips et al teach a ventilator (pneumatic pump 50), while Smock similarly provides a supply of air under pressure, such as air tanks 48 which also meet the requirements of the recited "ventilator". Smock teaches a bag assembly 35 including an opening in a bottom portion of the bag assembly for receiving the pressurized air. It would have been obvious, in view of this teaching of Smock, to locate an opening in the bottom of the inflatable flexible body (bag 66) of Phillips et al (U.S. 3,659,899) in order to permit inflation and deflation of the bag 66 from an out-of-the-way, underneath location. It further would have been obvious, in view of the location of pneumatic pump 50 in Figures 4 and 5 of Phillips et al (U.S. 3,659,899), and the location of the lines 45 of Smock, to locate a ventilator under the base of Phillips et al (U.S. 3,659,899) in order to reduce the number and length of supply lines, and to protect the ventilator from adverse weather, heavy machinery, abuse, and/or vandalism. Regarding Claims 6-7, the "bellows" and "air spring" are not recited in sufficient detail

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from the bag 66 of Phillips or the assembly 35 of Smock. The rings 37 of Smock constitute "a rigid bottom and a rigid top". It would have been obvious in view of the rings 37 of Smock, to connect a "bellows" or "air spring" to the bottom surface of the section 63 of Phillips et al in order to avoid shifting of the bellows or air spring relative to the section 63. Regarding claims 16-17, it would have been obvious, in view of Smock (Figures 3 and 4), to make the periphery of the bag smaller than the periphery of the planar member in order to reduce the volume of air needed to operate the apparatus and/or to reduce the amount of material (and the weight and the expense) required for the bag 66.

Regarding claims 18-19, Smock (U.S. 3,784,255) teaches clamping ring units 37a which surround at least a portion of the inflatable flexible body (upper bag 35b and lower bag 35a) and which are positioned such that they limit lateral expansion of the inflatable flexible body. Regarding claim 20, it would have been obvious, in view of rings 20 of Smock (U.S. 3,784,255), to provide means for detachably connecting an upper surface of the inflatable flexible body with a lower surface of the planar member in order to facilitate replacing worn-out flexible bodies. Regarding claim 21, note that the rings 37 of Smock are attached to the assembly 35 and to the body 12 by some type of fastener, as shown in Figures 3 and 4. It would have been obvious to use buttons in order to help distribute loads and stresses across a significant surface area of the rings 37.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips et al (U.S. 3,659,899) as applied to claims 1, 8 and 12 above, and further in view of Scott (U.S. 3,822,861). Scott teaches in column 5, line 50, that nylon mesh reinforced polyethylene is an appropriate material

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for an inflatable bladder. Accordingly, it would have been obvious to form the inflatable bag 66 of Phillips et al from nylon mesh reinforced polyethylene in order to ensure that the inflatable bag would withstand the necessary pressures and withstand repeated inflation/deflation cycles.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips et al (U.S. 3,659,899) as applied to claims 1, 8 and 12 above, and further in view of Beer (AU 588734). Beer teaches on page 5 that a PVC coated polyester fabric is a suitable flexible material for the inflatable bag 40. Accordingly, it would have been obvious to make the bag 66 of Phillips et al from a PVC coated fabric in order to provide the necessary strength, flexibility, and gas tightness.

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips et al (U.S. 3,659,899) as applied to claims 1, 8 and 12 above, and further in view of Pfleger et al (U.S. 3,902,213). It would have been obvious, in view of the lip 8 of Pfleger et al (U.S. 3,902,213), to provide a similar lip on the section 63 of Phillips et al (U.S. 3,659,899) in order to provide an extension of the section 63 which could be extended in order to support the section 63 on a truck body in a conventional manner (see column 5, lines 2-15 of Pfleger, for example).

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Allowable Subject Matter

Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

This is a continuation of applicant's earlier Application No. 08/532,415. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

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JAL
May 29, 1997

Any inquiry concerning this communication should be directed to Jim Lisehora at telephone number (703) 308-2145.

James A. Lisehora
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PRIMARY EXAMINER
GROUP 3500